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5 **UNITED STATES DISTRICT COURT**
6 **DISTRICT OF NEVADA**

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8 UNITED STATES OF AMERICA,
9 PLAINTIFF,

10 VS.

11 JOSE ARGUMANIZ,

12
13 DEFENDANT.

) COMPLAINT

) MAG-05- MJ-S-05-0769-GWF

) VIOLATION:

) 18 U.S.C. §2422(b) - Enticement of juvenile to
) engage in a sexual act.

14
15 **BEFORE** the United States Magistrate Judge, Las Vegas, Nevada, the undersigned
16 complainant, being first duly sworn, deposes and says:

17 From on or about March 24, 2005, until on or about September 28, 2005, in the State
18 and Federal District of Nevada,

19 **JOSE ARGUMANIZ,**

20 the defendant herein, used a facility of interstate commerce to attempt to knowingly persuade, induce,
21 and entice an individual who has not attained the age of eighteen (18) years to engage in any sexual
22 activity for which any person can be charged with a criminal offense in violation of Title 18, United
23 States Code, Section 2422(b).

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PROBABLE CAUSE AFFIDAVIT

I, Sue A. Flaherty, Complainant, as and for probable cause, state the following:

1. The Complainant is a Special Agent with the Federal Bureau of Investigation, and has been employed in this capacity since 1996. The Complainant has received specialized training regarding crimes against children and computer-related crime, including certification training at the FBI Academy pursuant to the FBI's Innocent Images National Initiative, which focuses on the investigation of online child sexual exploitation cases and child pornography cases. As a Special Agent, the Complainant has served numerous arrest warrants and search warrants involving crimes against children.

2. This affidavit is made in support of a complaint charging **Jose Argumaniz** with violating Title 18, United States Code, Section 2422(b), which makes it illegal for a person to utilize a facility of interstate commerce to attempt to knowingly persuade, induce or entice an individual who has not attained the age of eighteen (18) years to engage in any sexual activity for which any person can be charged with a criminal offense.

BACKGROUND REGARDING CHILD PORNOGRAPHY AND COMPUTERS

3. From both training and experience, the Complainant has gained knowledge in the operation of computers and the Internet. Based upon the training and experience of the Complainant, as well as the training, knowledge, and experience of other law enforcement personnel involved in this investigation, the Complainant knows the following:

a. The Internet is a worldwide computer network which connects computers and allows communications and the transfer of data and information across state and national boundaries.

b. Individuals who use the Internet can communicate with each other by using electronic mail, also known and referred to herein as "E-mail". E-mail is an electronic form of communication which can contain letter-type correspondence and graphic images. E-mail is similar to conventional paper-type mail in that it is addressed from one individual to another.

1 c. An E-mail message usually contains a header which gives the screen
2 or account name, the identity of the Internet access provider, and the return address on the Internet of
3 the individual who originated the message or graphic.

4 d. A user can access the Internet from a computer network or Internet
5 Service Provider (ISP) that connects to the Internet. An ISP assigns each user an Internet Protocol (IP)
6 number. Each IP number is unique.

7 4. America On Line (AOL) provides numerous services on the Internet to those
8 individuals that subscribe to an AOL account. Among the services that AOL members can utilize are
9 chat rooms, Instant Messaging, and E-mail. AOL members can communicate privately between two
10 users or among a group.

11 a. Group communication is referred to as AOL chat. Members can
12 individually create, control, and enter a AOL chat room. The name of a AOL chat room can be created
13 by AOL members or by AOL itself.

14 b. Private communication between two users is done through AOL Instant
15 Messaging.

16 c. A user accesses his/her AOL account by having his/her computer system
17 dial his/her ISP, and then either automatically or manually launch into AOL. AOL can also serve as
18 an ISP for a user.

19 d. An AOL user is specifically identified by the account name he/she
20 obtained when registering for the service. A member account name, also known as a screen name, is
21 unique and is not shared among other users.

22 e. AOL is based in Virginia, and its servers are located there. All
23 communications that occur on AOL go through these servers in Virginia.

24 5. Yahoo! is a company that provides free and fee web-based Internet e-mail
25 access to the general public.

26 a. Each subscriber to Yahoo! has access to a computer which

1 communicates, through a modem connected to a telephone line, with the central computer system
2 operated by Yahoo! in Sunnyvale, California.

3 b. Yahoo! maintains records pertaining to its subscribers. These records
4 include subscriber information, account access information, e-mail transaction information, account
5 application information, and other information which records the activities and interactions of these
6 accounts.

7 c. The subscriber can communicate with other subscribers, either via
8 electronic mail ("e-mail") or in real time "chat sessions" if the other subscribers are simultaneously
9 online. Contact with others in this online format can be either very open and anonymous, in front of
10 everyone else who happens to be in the same chatroom at the same time, or very private and personal
11 in the form of person to person Instant Messages. The open and anonymous communication provides
12 a user interested in enticing a minor to engage in sexual activity the means to do so.

13 d. With this system, subscribers can send e-mail messages to each other
14 and attach files to those messages. E-mail enables subscribers to communicate by computer similar
15 to writing letters and sending them through the mail. The anonymous communication provided by the
16 use of the e-mail service provides a user interested in enticing a minor to engage in sexual activity the
17 means to do so.

18 e. A Yahoo! subscriber can store files, including image files, in the
19 computer located at Yahoo! in Sunnyvale, California, in his shell account, or any other account to
20 which he has access. The only way the subscriber can view this image file is by downloading the
21 image file to his computer and subsequently viewing it.

22 f. Yahoo! subscribers are able to use screen names during communications
23 which in many cases do not provide the subscriber's true name or identifying data. In addition, the
24 subscriber can fill out a subscriber profile which corresponds to the subscriber's screen name.
25 However, the subscriber can put any identifying data into this profile. There is no check by Yahoo!
26 or anyone else as to the accuracy of subscriber information entered in this profile.

INVESTIGATION

6. This Complaint is based upon information obtained from my personal investigation and the investigation of other law enforcement officials. Since March 24, 2005, the complainant and other law enforcement officers have worked an investigation of **Jose Argumaniz** relative to criminal violations of Title 18, United States Code, Section 2422(b).

7. In June 2005, SA Anna Koehler of the Reno, Nevada FBI office, informed the Las Vegas FBI office that in March, 2005, she had logged on to Yahoo! Messenger in an undercover capacity as a 14 year old female named "Sandie." While on line an individual, utilizing the Yahoo! screen name "male2seduceu," sent an Instant Message to "Sandie," asking how old she was and where she lived. "Male2seduceu" told "Sandie" that he was a 32 year old male named "Jose Argumaniz" and that he resided in Las Vegas. "Male2seduceu" initiated conversations about sex and asked if "Sandie" wanted to view him naked on his web camera, to which "Sandie" declined the invitation. SA Koehler, posing as "Sandie," chatted with "male2seduceu" on three more occasions. During two of these chat conversations, "male2seduceu" invited "Sandie" to view him naked on his web camera. On each web camera display, "Male2seduceu" masturbated himself and asked "Sandie" if she would perform oral sex on him. SA Koehler captured these web camera displays which depicted "Male2seduceu's" face and body. During all of the online conversations, "Male2seduceu" spoke in sexually graphic language and suggested that they meet and engage in various sexual acts. During the last online conversation, occurring on June 27, 2005, "Male2seduceu" told "Sandie" that he was employed at Bank of America and asked "Sandie" to call him at work. "Male2seduceu" provided the telephone number 804-3462. "Sandie" told "Male2seduceu" that she was traveling to Las Vegas and would be staying with her cousin, "Ashlee." "Sandie" provided "Male2seduceu" with "Ashlee's" Yahoo screen name of "lilmermaid777" and AOL e-mail address of "Ashlebaybee@AOL.com," so that "Sandie" could continue to chat with "Male2seduceu" while in Las Vegas. No further communications occurred between "Sandie" and "Male2seduceu."

8. On June 16, 2005, a query was made with the Nevada Department of Motor

1 Vehicles (DMV) for the name Jose Argumaniz. It was revealed that Jose Manual Argumaniz, date of
2 birth June 14, 1972, Social Security Account number 462-61-4431, with an address of 5377 Barrel
3 Springs, Las Vegas, Nevada, had a valid Nevada driver's license. Nevada DMV records reflected a
4 2002 Pontiac, bearing Nevada license number 850-PNY as being registered in the name of Jose
5 Argumaniz and Liliana Magana, 5377 Barrel Springs, Las Vegas, Nevada. Nevada DMV records
6 indicated a second vehicle, a 2001 Suzuki, bearing Nevada license number 687-MRH, as being
7 registered to Liliana Magana. An additional query was made with Nevada Power company for
8 customer service information in the name Jose Argumaniz, Social Security Account number 462-61-
9 4431. It was revealed that Jose Argumaniz had service at 2607 Red Rock Street, Unit Number 102,
10 Las Vegas, Nevada. It was also detailed that Jose Argumaniz was employed at Bank of America and
11 had a spouse by the name Liliana. A query was made with the Clark County Assessors office revealed
12 that in July, 2004, Jose Argumaniz and Liliana Magana purchased a residential condominium at 2607
13 Red Rock Street, unit number 102, Las Vegas, Nevada. The mailing address listed was 5377 Barrel
14 Spring Way, Las Vegas, Nevada.

15 9. On June 30, 2005, the Complaint served a Department of Justice/Federal
16 Bureau of Investigation administrative subpoena on Yahoo, requesting subscriber information for the
17 Yahoo screen name "Male2seduceu." Compliance Officials with Yahoo responded with the subscriber
18 as being "Mr.jose argumaniz, Las Vegas, Nevada, 89146." Yahoo records listed other screen names
19 on this account as being "ilike2eatwtgrls," "male2seduceu," and "guynnev." Additionally, Yahoo
20 provided a list of the most IP connections for this account. The last IP connection listed was on June
21 27, 2005, at 23:56:12 Greenwich Mean Time (GMT), was 65.173.64.238.

22 10. On July 5, 2005, a query was made with officials of Bank of America requesting
23 employment information for Jose Argumaniz. It was revealed that Argumaniz was employed as a
24 Customer Service Manager at the Bank of America branch located at on Town Center Drive in
25 Summerlin. An employment photograph of Argumaniz was provided, which appeared to be the same
26 individual depicted in SA Koehler's web camera captures.

11. On August 2, 2005, the Complaint, acting in an undercover capacity as "Ashley," a fourteen (14) year old female, and using the screen name "Ashlebaybee," logged on to AOL. Within a few seconds, "Ashley" received an Instant Message from the AOL screen name "DamPHUG3R", stating "hey". "Ashley" replied "hiiiiio, do i no u?" "DamPHUG3R" explained that he thought they had chatted over month ago and then asked "Ashley" her age, to which she replied that she was 14 years old. "DamPHUG3R" stated that he was 25 years old and that he resided in "sw vegas." After "Ashley" told "DamPHUG3R" that she resided in Summerlin, "DamPHUG3R" told "Ashley" that he was employed at the Bank of America located at Summerlin Parkway and Town Center. "DamPHUG3R" asked "Ashley" if she had a "pic." "DamPHUG3R" explained that he did not have a picture and asked if "Ashley" had Yahoo Messenger so that he could display his web camera for her. "Ashley" stated that she did and provided the Yahoo screen name, "lilvegasprincess2003." "DamPHUG3R" instructed "Ashley" to log on to Yahoo Messenger and said that his Yahoo screen name was "male2seduceu." Within in seconds of logging on to Yahoo Messenger, "Ashley" received an Instant Message from "male2seduceu." An online chat conversation between ensued on Yahoo Messenger. "Male2seduceu" told "Ashley" that his name was "Jose" and requested "Ashley" to send her picture to the e-mail address of "ilike2eatwtgrls@yahoo.com." "Ashley" sent, via e-mail, a picture of a FBI Agent taken when she was 14 years old. "Male2seduceu" sent a reply e-mail which stated that he had received "Ashley's" picture. The header on the reply e-mail indicated the e-mail was sent on August 2, 2005, at 16:35:27 Pacific Daylight time (PDT) with an originating IP address of 207.200.116.74. "Ashley" asked "male2seduceu" what his e-mail address meant, to which he replied that it meant "i like to eat wet girls." "Male2seduceu" indicated that he received "Ashley's" picture and told "Ashley" "i think you are hott...nice legs to." He then asked "Ashley" if she was alone and sent her an invitation to view his web camera. The online chat conversation continued with "male2seduceu" initiating conversations about sex. While he was chatting, "male2seduceu" got undressed in view of the web cam so that "Ashley" could observe. "Male2seduceu" then asked "Ashley" if she was "ready to see me naked on the bed." "Male2seduceu" then turned the web cam

1 to show a bed which had a bedspread, blanket, or sheet which is brown in color with an image of what
2 appeared to be a lion. "Male2seduceu" then laid on the bed on his back. He was naked and had an
3 erection. "Male2seduceu" masturbated himself for a few seconds, then got up and sat down in front
4 of the computer again. "Male2seduceu" continued to masturbate himself until he ejaculated. A series
5 of screen captures were taken throughout the web cam display, depicting "Male2seduceu's" face, body,
6 and the room in which "Male2seduceu" was chatting. This person appears to be the same person who
7 sent web cam images to "Sandie" in Reno, and the same person from the Bank of America photo
8 referenced above. During the chat conversation, "Male2seduceu" offered to let "Ashley" touch his
9 penis and explained that he takes "an hour or so" for lunch and could come to her house.
10 "Male2seduceu" asked "Ashley" if she was home alone during the day. "Ashley" then asked
11 "Male2seduceu" how old he really was and he responded by asking if she wanted to know the truth.
12 He responded by saying he was really 33 years old. "Male2seduceu" then asked if "Ashley" if she
13 wanted him "over for lunch someday" or if she would come to his house. "Male2seduceu" asked if
14 "Ashley" would call him at work sometime and provided the telephone number of 804-3462.

15 12. On August 4, 2005, SA Flaherty placed a telephone call to 804-3462, the
16 number provided by "Male2seduceu." The voice message stated that this was the desk of Jose
17 Argumaniz, manager of customer service.

18 13. On August 4, 2005, a query was made with the United States Postal Inspector's
19 office regarding 2607 Red Rock Street, unit number 102, Las Vegas, Nevada. It was determined that
20 Jose and Liliana Argumaniz and FNU (first name unknown) Magana were receiving mail at that
21 address.

22 14. On August 5, 2005, the Complaint served a Department of Justice/Federal
23 Bureau of Investigation administrative subpoena on AOL, requesting subscriber information for the
24 AOL screen name "DamPHUG3R." Compliance Officials with AOL responded with the subscriber
25 as being Liliana Magana, 5377 Barrel Springs Way, Las Vegas, Nevada. The master screen name for
26 this AOL account was "jmargumaniz."

1 15. On August 8, 2005, the Complaint served a Department of Justice/Federal
2 Bureau of Investigation administrative subpoena on Netscape Communications Corporation, an
3 affiliate of AOL, for customer utilization records for the IP connection log of 207.200.116.74 on
4 August 2, 2005, at 16:35:27 Pacific Daylight time (PDT). Compliance Officials with AOL responded
5 with the connection information associated with that IP connection log, was for the account name
6 "jmargumaniz," utilizing a Sprint DSL Network.

7 16. On August 17, 2005, the Complaint served a Department of Justice/Federal
8 Bureau of Investigation administrative subpoena on Earthlink, for customer utilization records for the
9 IP connection log of 65.173.64.238 on June 27, 2005, at 23:56:212 Greenwich Mean Time (GMT).
10 This was the most recent IP connection that had provided by Compliance Officials with Yahoo for
11 the account "Male2seduceu". Compliance Officials with Earthlink responded with the connection
12 information associated with that IP connection log had been utilized by an Earthlink account in the
13 name of Jose Argumaniz, 2607 Red Rock Street, Unit Number 102, Las Vegas, Nevada, 89146.

14 17. On or about September 8, 2005, a surveillance was performed at the Bank of
15 America located on Town Center near Summerlin Parkway. A 2002 Silver Pontiac, bearing Nevada
16 license number 850-PNY was observed parked in the lot adjacent to the Bank of America building.
17 A white male was observed exiting the Bank of America building and departing the lot in the 2002
18 Pontiac. The vehicle was followed to a condominium complex located at the corner of Red Rock
19 Street and Laredo Street. The vehicle was observed in the parking lot next to the building containing
20 the 2607 Red Rock Street address.

21 18. Between August 7, 2005 and September 28, 2005, seventeen e-mail messages
22 were exchanged between the AOL screen names of "DamPHUG3R" and "Ashlebaybee." Contained
23 in many of these e-mail messages, "DamPHUG3R" expresses how much he misses "Ashley" and wants
24 to talk to her again. "DamPHUG3R" again provided his work number of 804-3462.

25 19. In an e-mail message from "DamPHUG3R," dated September 19, 2005,
26 "DamPHUG3R" stated that he thought about "Ashley" all the time and that his "dick really aches for

1 you and I want to feel your mouth on it or your hands on my dick." "DamPHUG3R" explained that
2 he would be changing his days off to Friday and Saturday and suggested that "Ashley" skip school on
3 a Friday so they could "spend it with me all day so I can teach you some stuff."

4 20. In an e-mail message from "DamPHUG3R," dated September 21, 2005,
5 "DamPHUG3R" stated "i so want to feel you sucking on my dick." He explained that he would not
6 be off work until the first Friday of October. He further explained, "I want you to skip school then so
7 i can either come see you at your house or i can go pick you up so we can mess around all day... I
8 bought a porno movie that we can watch if you want that is while we make out and stuff."

9 21. In an e-mail message from "DamPHUG3R," dated September 27, 2005,
10 "DamPHUG3R" stated that he wanted to meet on Friday (September 30, 2005) at 9:00 in the morning.
11 "DamPHUG3R" further stated "my dick is getting so hard just thinking of you....I can't wait to see you
12 and kiss you and let you do anything you want to try to me."

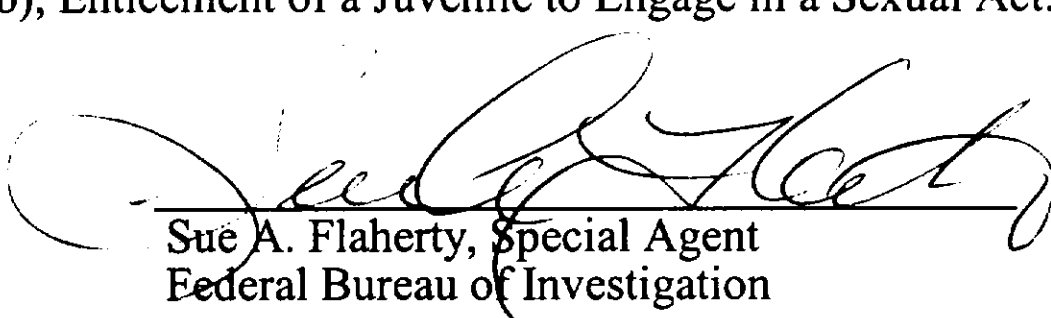
13 22. In an e-mail message from "DamPHUG3R," dated September 27, 2005,
14 "DamPHUG3R" stated "i can't wait to kiss you and feel your hands and lips all over my dick."
15 "DamPHUG3R" explained that he drove a silver Suzuki and asked where "exactly" to pick "Ashley"
16 up.

17 23. In an e-mail message from "Ashley," dated September 28, 2005, "Ashley"
18 explains that she will meet "DamPHUG3R" at the Crossings Park located at the corner of Banbury
19 Cross and Crestdale Avenue in Summerlin on Friday (September 30, 2005) at 9:00 a.m.

20 24. Later that day, "Ashley" logged on to AOL and received an e-mail message
21 from "DamPHUG3R." "DamPHUG3R" replied by agreeing to that meeting location. He asked
22 "Ashley" if her school would call her mother because she was not in attendance. He further asked "if
23 you get caught...would you say anything about us?...Cause i know you and i would both be in big
24 trouble." "DamPHUG3R" asked if "Ashley" would "suck my dick on cam while other people viewed
25 it." As "Ashley" was reading this e-mail message, "DamPHUG3R" sent "Ashley" an Instant Message,
26 after which an online conversation ensued. "DamPHUG3R" stated that he was at home. "Ashley"

1 asked about the "porno movie" that "DamPHUG3R" had for them to watch. "DamPHUG3R" replied
2 that it was a 4 hour DVD which depicted "sex and some girls sucking dick." "DamPHUG3R" asked
3 if "Ashley's" "pussy" had been getting wet. "DamPHUG3R" stated that he wanted to "start things slow
4 and do one thing at a time." "DamPHUG3R" asked how big "Ashley's" "tits" were and how much hair
5 "Ashley" had on her "pussy." "DamPHUG3R" asked if he could take naked pictures of "Ashley" and
6 pictures of "Ashley" performing oral sex on him. "DamPHUG3R" asked for directions to the Crossing
7 Park and said he would be there Friday morning. He stated that if he was not driving the silver Suzuki,
8 he would be driving a silver Pontiac Sunfire. "DamPHUG3R" ended the conversation by asking if
9 "Ashley" would send him an e-mail telling him "something naughty" and "anything that will turn me
10 on".

11 Based on my training, experience and the totality of the facts related, I have concluded
12 that there is probable cause to believe **Jose Argumaniz**, the above-named defendant, has violated Title
13 18, United States Code, Section 2422(b), Enticement of a Juvenile to Engage in a Sexual Act.

14
15 
16 Sue A. Flaherty, Special Agent
Federal Bureau of Investigation

17
18 **SUBSCRIBED** and **SWORN** to before me
19 this 27th day of September, 2005.

20 
21 UNITED STATES MAGISTRATE JUDGE
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